

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kevin Nicholas	Team: Team # 8	CCRB Case #: 200717823	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 12/02/2007 4:30 AM	Location of Incident: a club named C-PAC - East 48th Street & Farragut Road	Precinct: 67	18 Mo. SOL 6/2/2009	EO SOL 6/2/2009	
Date/Time CV Reported Mon, 12/03/2007 7:50 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/11/2007 3:46 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			067 PCT
2. POM Devin Long	22189	940388	067 PCT
3. POM Bruce Ceparano	02203	933682	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ricardo Joseph	12372	938736	067 PCT
2. SGT Thomas Mchugh	04659	916988	067 PCT
3. SGT Thomas Hergenhan	02601	931725	067 PCT
4. LT Denis Burke	00363	918793	067 PCT
5. DI William Aubry	00000	895072	067 PCT
6. SGT Bernard Smiley	03605	909660	067 PCT
7. POM Gregory Pico	25105	941105	067 PCT
8. POF Cheryl Weiss	03917	937719	067 PCT

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
9. POM Jaime Santiago	25967	941137	067 PCT
10. POM Christop Carita	06863	938167	067 PCT
11. POM Brian Foley	17522	923834	067 PCT
12. POM Marcelo Salazar	03466	931964	067 PCT
13. POM Ashland Menelas	14410	940466	067 PCT
14. POM Narine Ramlochan	25777	941118	067 PCT
15. POM Mark Beelitz	09626	938049	067 PCT
16. POF Carrie Reilly	16848	930358	067 PCT
17. POM Anthony Matos	28481	925688	067 PCT
18. POM Gerald Barnett	14733	918688	067 PCT
19. POM Joshua Dawson	10978	934724	067 PCT

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
A. Officers	Force: Officers used pepper spray against § 87(2)(b) and individuals.	
B.POM Bruce Ceparano	Force: PO Bruce Ceparano struck § 87(2)(b) with a flashlight.	
C.POM Devin Long	Abuse: PO Devin Long did not obtain medical treatment for § 87(2)(b)	

### Synopsis

On December 2, 2007 at approximately 4:30 AM, § 87(2)(b) and a few of his friends exited a club called C-PAC located at the intersection of East 48<sup>th</sup> Street and Farragut Road in Brooklyn. The entire club was letting out at this time. As they neared a friend's minivan, several police officers ran up to them. Sgt. Denis Burke and Sgt. Thomas McHugh of the 67<sup>th</sup> Precinct began pepper-spraying everyone in the vicinity (**Allegation A**). PO Bruce Ceparano of the 67<sup>th</sup> Precinct, told § 87(2)(b) to walk away. An unidentified officer pepper-sprayed § 87(2)(b) (**Allegation A**). PO Ceparano then allegedly struck § 87(2)(b) two to four times with a flashlight on top of his head (**Allegation B**). After staggering briefly, § 87(2)(b) ran away. He stopped to speak to PO Devin Long of the 67<sup>th</sup> Precinct. He told PO Long that he was bleeding and asked if he could wash off the blood. PO Long allegedly told him to just leave the scene (**Allegation C**). § 87(2)(b) did so but returned some time later. He again approached PO Long and pointed out that he was bleeding. PO Long again advised him to just leave the scene (**Allegation C**). § 87(2)(b) went inside the club where he cleaned up his injury. Later, a friend drove him to § 87(2)(b) where he received eight stitches for the laceration.

§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b) is a § 87(2)(b). He provided a statement to § 87(2)(b) personnel on December 2, 2007 (encl. 66 A-V), phoned in a complaint to IAB on December 2, 2007 (encl. 4 A-C and IAB Intake CD), was interviewed by IAB Group 54 on December 3, 2007 (encl. 6 A-C) and December 4, 2007 (encl. 7 A-B), provided a phone statement to CCRB on December 14, 2007 (encl. 8 A-B), appeared at the CCRB for an interview on January 16, 2008 (encl. 9 A-O), and provided a follow-up phone statement to CCRB on February 29, 2008 (encl. 10 A). Below is a composite of his statements with discrepancies noted.

On December 2, 2007 at approximately 1:00 AM, § 87(2)(b) went alone to an advertised party at a club called C-PAC on East 48<sup>th</sup> Street in Brooklyn. He was wearing a blue shirt, blue jeans, black jacket and a do-rag. He stayed at the club for a few hours and met up with several friends. He had only one drink. At some point between 4:00 AM and 5:00 AM, § 87(2)(b) exited the club with his friends § 87(2)(b) and § 87(2)(b) brother (name unknown). § 87(2)(b) told the CCRB that he did not know their last names or contact information. However, § 87(2)(b) told IAB that § 87(2)(b) last name was § 87(2)(b).

They all walked towards § 87(2)(b)'s minivan. In his CCRB interview, § 87(2)(b) drew a picture of the area outside the club (encl. 9 F). He explained that there is a large gate, situated some distance from the club, and the minivan was parked outside this gate. While walking, § 87(2)(b) overheard someone saying that there had been a fight but he did not observe it. A lot of people seemed excited, but there did not seem to be anything out of the ordinary going on. As § 87(2)(b) neared § 87(2)(b)'s vehicle, he heard an unidentified person scream, "My eyes!" § 87(2)(b) turned around and saw five to six police officers running towards the dead end from the nearby intersection. Almost all of these officers had pepper spray and flashlights in their hands. At this time, "mace was already flying in the air" (**Allegation A**).

§ 87(2)(b) was trying to open the sliding back door when several officers approached him and his friends. A white male officer in blue uniform told § 87(2)(b) to step away from the minivan and leave the area. § 87(2)(b) described this officer as bald, around 5'7-8", a little stocky, clean-shaven, in his 30s and as having no glasses. The CCRB investigation subsequently identified this officer as PO Bruce Ceparano of the 67<sup>th</sup> Precinct.

§ 87(2)(b) asked PO Ceparano why he had to walk away when he was about to enter his friend's car.

In his IAB intake call and in his IAB interview only, § 87(2)(b) alleged that PO Ceparano punched him on the left side of his face. In his CCRB interview and other statements, he said that as he turned to face PO Ceparano, an unidentified officer pepper-sprayed him in both eyes (**Allegation A**). Because a lot of officers were using pepper spray and because there was so much pepper spray in the air, § 87(2)(b) had could not see who sprayed him. § 87(2)(b) was unable to determine whether PO Ceparano was even holding pepper spray at the time.

Upon turning around, § 87(2)(b) was able to see PO Ceparano holding a large black flashlight in one hand and an unidentified object in the other hand. Using two to four overhand strikes in quick succession, PO Ceparano struck § 87(2)(b) with the flashlight on the top of his head, towards the back left side (**Allegation B**). When § 87(2)(b) was asked in his CCRB interview how he was certain that he was struck with the flashlight, he said, “Because I remember as he approached me there was a flashlight in his hand. I remember he had a flashlight and something else which I couldn’t describe in his [other hand] so I assumed that it was the flashlight that I was hit with.” In his IAB interview, § 87(2)(b) further specified that “he did not actually see the light strike him, but had seen the light in the officer’s possession prior to him being struck.”

§ 87(2)(b) slouched, stumbled a few times, and glanced up to see PO Ceparano still swinging. § 87(2)(b) began running down the street. § 87(2)(b) was not certain about his friends’ locations at this time and could not identify anyone as having witnessed him being hit.

§ 87(2)(b) stopped briefly to speak to a black male officer whom he described as having short braids, around 6’0-2”, slim to medium build, clean-shaven, in standard blue uniform, and as having a darker complexion than himself. In his second IAB photo array interview, § 87(2)(b) identified this officer as PO Devin Long of the 67<sup>th</sup> Precinct. § 87(2)(b) was 75% certain about the identification, despite the fact that PO Long’s hair in the photo (encl. 76 F) was not in braids.

§ 87(2)(b) told PO Long, “Look, I was just struck by a cop. I’m bleeding. Can I go back inside and wash it off?” § 87(2)(b)’s exact words may have been, “Yo dawg, I just got hit by a cop.” PO Long just told him to leave the scene (**Allegation C**).

On the IAB intake CD only, § 87(2)(b) is heard alleging that at this point, a different officer, whom he described as a white male, 6’0”, brown hair, 230 lbs, 30s, pepper-sprayed him. § 87(2)(b) never mentioned anything in his CCRB interview about being pepper-sprayed on a second occasion.

§ 87(2)(b) left the immediate area and waited for a while on the next block. He observed numerous marked police vehicles from the 67<sup>th</sup> Precinct, including one van, parked in the street and “a lot more cops.” The officers were ordering everyone to leave and were swinging batons at people’s legs and banging on people’s cars.

Around this time, § 87(2)(b) discovered that his hat and do-rag were covered in blood. Despite having previously told PO Long that he was bleeding, § 87(2)(b) claimed in his CCRB interview that it was only at this time that he realized that he was bleeding. As a result, § 87(2)(b) decided to walk back to the club, where he again ran into PO Long. § 87(2)(b) again told him that he was bleeding because a cop had hit him and asked if he could wash off the blood. PO Long told § 87(2)(b) “You don’t want to go back in there” (**Allegation C**). § 87(2)(b) said, “Look, I’m bleeding... look, yo dawg, I just want to wash my head.” PO Long replied, “Why do you keep ‘dawgin’ me? Why do you keep saying, ‘Yo dawg?’” In § 87(2)(b)’s IAB interview, he reported that “up to this point, [he] requested no medical attention from any person.” § 87(2)(b) was later asked by IAB investigators why he never specifically requested medical attention, and he answered that he did not want to request medical attention from a police officer when he had just been hit by a police officer.

A white male officer walked over at this time. § 87(2)(b) could not further describe this officer because he did not get a good look at him. This officer was tentatively identified as PO Jaime Santiago of the 67<sup>th</sup> Precinct. PO Long again told § 87(2)(b) that he didn’t want to go back inside the club. Shortly thereafter, PO Long and PO Santiago entered a nearby vehicle and left.

§ 87(2)(b) again approached the club. He saw the club owner, § 87(2)(b) who walked § 87(2)(b) inside and gave him a bottle of water. A couple of people helped § 87(2)(b) to wash his head and eyes. There were a lot of people in the bathroom who were also washing their eyes out. § 87(2)(b) saw § 87(2)(b) who claimed that he had also been pepper-sprayed and complained that his head hurt. In his initial phone statement only, § 87(2)(b) quoted him as stating, "Fucking cop hit me."

Ten to fifteen minutes later, § 87(2)(b) exited the club and found the area outside deserted. § 87(2)(b)'s friend, identified only as § 87(2)(b) drove him to § 87(2)(b) in § 87(2)(b)'s van. The digital photos taken at the hospital (encl. 9 G-L) demonstrate that § 87(2)(b) was bleeding profusely from a large gash on the back left side of his head. According to his hospital records (encl. 66 A-V) § 87(2)(b) told medical personnel that he was injured as a result of "police brutality" and had been "hit [with] flashlight by NYPD." § 87(2)(b) received eight stitches for a laceration on the back of his head. He was not treated for the pepper spray. He was discharged about an hour later. ).

§ 87(2)(b) went home and was confined to his bed for the rest of the day due to the pain in his head. On the morning of December 3, 2007, he called 911 and filed a complaint. IAB investigators interviewed him at his residence that same day and at his friend's house the following day. He was shown several photos of officers who were possibly at the scene. As mentioned above, he identified PO Long as the officer who he spoke to about his injury. He did not identify the officer who allegedly struck him with a flashlight.

When he appeared for his CCRB interview, a Polaroid photo was taken of him (encl. 9 E). § 87(2)(b) explained that the wound on his head had since healed and hair had grown over it. § 87(2)(b) told the CCRB that he would be willing to view officer photos. The undersigned made numerous attempts to schedule § 87(2)(b) for a photo array interview. Between October 2, 2008 and December 3, the investigator mailed him two photo viewing contact letters, sent him two emails and placed five phone calls to each of his three phones. The results were the same every time for each respective number: a voice message was left, the number was not in service, or the number was not receiving calls. A search of Coles yielded a new phone number for § 87(2)(b). Between December 3, 2008 and February 25, 2009, five phone calls were placed to this number. With each call, the line rang out. § 87(2)(b) never contacted the investigator.

## **Results of Investigation**

### **Field Visit to Incident Location**

The undersigned went to the incident location on February 7, 2008 (encl. 17 A) and took several photos of the surrounding area (encl. 17 B-Q).

The dead-end in which C-PAC is located is approximately 150 yards long. Halfway down the street, there is a large wrought iron fence that spans the street. C-PAC is located on the other side of this fence, in the far corner of the dead-end. The entire area is industrial-looking. The other businesses include shipping warehouses and transportation companies. There were several surveillance cameras found in the area which were pointed north toward the street.

The undersigned knocked on several doors at C-PAC and got no response. At one door, the people present stated that they worked for a different business and reported that C-PAC personnel usually did not appear until much later in the day.

The undersigned went into several businesses located at the corner, including Nautica Paints and § 87(2)(b) and spoke to § 87(2)(b). None of them witnessed the incident and said that their businesses were closed at the time. The § 87(2)(b) at § 87(2)(b) did not know anything about procuring video evidence.

**Witness Statements – § 87(2)(b)**

§ 87(2)(b) is a § 87(2)(b) -old male. IAB interviewed him at his residence on January 17, 2008 (encl. 11 A-B). The interview was not recorded due to a tape recorder malfunction.

§ 87(2)(b) reported that the person whom § 87(2)(b) identified only as § 87(2)(b) is actually his brother, § 87(2)(b).

§ 87(2)(b) reported that it was just he, his brother and § 87(2)(b) who exited the club. Shortly thereafter, § 87(2)(b) was “sucker punched” by a person in the crowd. The CCRB investigation ultimately identified this person as likely being § 87(2)(b). Immediately after being punched, § 87(2)(b) got in a fight with three or four people. At this time, he did not know where § 87(2)(b) was located.

Uniformed officers approached and a bald white male officer, already identified as PO Ceparano, pepper-sprayed § 87(2)(b) and other people who were fighting. The police yelled that everyone should disperse. § 87(2)(b) never saw an officer strike anyone, but claimed he heard a “thump” behind him which could have been the sound of someone being struck by a flashlight. Some time later, § 87(2)(b) left the scene and went to work. He did not see § 87(2)(b) at any later point that day.

IAB showed § 87(2)(b) a photo array. He did not identify any officers.

The IAB case file contained contact information for § 87(2)(b). Contact letters were mailed to his home address on February 12, 2009 and February 19, 2009. Between February 12, 2009 and February 26, 2009, five phone calls were placed to the first phone number listed for him. With each call, an automated message would state that the number was not in service. Between February 12, 2009 and February 19, 2009, two calls were placed to the second number. The second call was answered by an individual who indicated that there was no one there by that name.

**Witness Statements – § 87(2)(b)**

At the time of the incident, § 87(2)(b) was employed as a bouncer at C-PAC and his supervisor was § 87(2)(b). § 87(2)(b) placed a call to 911 at the time of the incident (encl. 70 A and Communications CD), was interviewed by IAB on December 5, 2007 (encl. 18 A-B) and provided a phone statement to CCRB on March 10, 2008 (encl. 19 A-B).

On December 2, 2007 at 4:30 PM, § 87(2)(b) was standing just outside the large gate in front of the club when he observed a fight break out. There were so many people in the crowd that the bouncers were unable to handle the situation. § 87(2)(b) called 911 so that the police could help disperse the crowd. When the police arrived two minutes later, the original fight had already stopped and those people left the scene.

However, a short time later, a male unknown to § 87(2)(b) jumped off a nearby car and “sucker-punched” another male right in front of the police. IAB showed § 87(2)(b) photos, and he positively identified the individual who threw the punch as § 87(2)(b). The person § 87(2)(b) punched was identified by CCRB as § 87(2)(b).

In his IAB interview, § 87(2)(b) reported that § 87(2)(b) had three or four friends with him at the time. These friends tried to put § 87(2)(b) inside a nearby green minivan. § 87(2)(b) resisted and § 87(2)(b)'s friends began trying to hit him. § 87(2)(b) covered his face and went to the ground.

The police seemed to be having difficulty controlling the situation. Shortly thereafter, an unknown number of officers started using pepper spray and everyone dispersed. It was apparent to § 87(2)(b) that the police had used the pepper spray as a means to disperse the crowd. § 87(2)(b) had no idea how many people were pepper-sprayed, but said that anyone in the immediate vicinity would have been affected.

In his IAB interview only, § 87(2)(b) said that during the struggle, he approached the vicinity of the green minivan. He never saw any officer strike anyone in the vicinity of the green minivan. However, in his IAB

interview, § 87(2)(b) admitted that he had punched an unidentified male, who had braids and was wearing a purple shirt, in the face at some point during the incident. Immediately after § 87(2)(b) punched him, this male backed off and left the scene.

In his IAB interview, § 87(2)(b) was shown photos of § 87(2)(b) and the injury to his head. § 87(2)(b) did not recognize him and denied seeing anyone with that kind of injury at the scene. IAB also showed § 87(2)(b) several officer photos - he did not recognize any of them.

§ 87(2)(b) appeared dazed from having been punched by § 87(2)(b). He also had a “busted lip,” and appeared to have been pepper-sprayed. § 87(2)(b) never saw any officer strike § 87(2)(b) in the head. § 87(2)(b) grabbed § 87(2)(b) and led him back inside the club so that he could wash his face. EMS appeared at the scene and treated § 87(2)(b) who at this point was on the ground. Other people were injured and bleeding but these injuries were caused by other civilians. § 87(2)(b) himself was never pepper-sprayed and never injured.

After § 87(2)(b) washed his face, he went home. At this time, the area outside appeared deserted. At no point did § 87(2)(b) see any officer hit anyone in the head with any object. § 87(2)(b) said that he did not observe anything at the scene that appeared to be police misconduct.

§ 87(2)(b) never obtained the names or badge numbers of any officers at the scene. There were no more than seven to eight officers total at the scene and they were all from the 67<sup>th</sup> Precinct. Most were in uniform, but perhaps 3-4 were in plainclothes. Most of the units were marked but perhaps one or two were unmarked.

#### **Witness Statements – § 87(2)(b)**

§ 87(2)(b) is an § 87(2)(b)-old black male. He provided statements to the police at the incident scene, which were recorded on a UF-61 (encl. 21 A-C) and an AIDED card (encl. 22 A-B), was interviewed by IAB on December 4, 2007 (encl. 14 A), was interviewed by 67<sup>th</sup> Precinct squad detectives on December 5, 2007 (encl. 69 C) and spoke briefly to the CCRB on February 11, 2008 (encl. 15 A).

§ 87(2)(b) affirmed to the police that he had been drinking at the club. He denied to IAB that he was intoxicated.

§ 87(2)(b) told the 67<sup>th</sup> Precinct Detective Squad that upon exiting the club, he was talking to an unidentified female when a large fight erupted. Shortly thereafter, an unidentified individual struck § 87(2)(b) in the head with a bottle. § 87(2)(b) could not remember anyone approaching him prior to this point and stated that he would be not be able to identify who struck him. § 87(2)(b) sustained a laceration to his nose and lost consciousness. In his statement to IAB the day before, however, § 87(2)(b) said that he only remembered walking out of the club and then later regaining consciousness – he did not remember anything that transpired in between. IAB showed § 87(2)(b) a photo of § 87(2)(b) but he did not recognize him.

Upon regaining consciousness, EMS was treating the laceration and the police were dispersing the crowd. § 87(2)(b) then went home in a livery cab.

When the undersigned called § 87(2)(b) on February 11, 2008, he claimed to have no knowledge of this incident, even after it was explained that the CCRB had a copy of his complaint report. When the line disconnected, the undersigned called the number again and spoke to § 87(2)(b)'s grandmother. She stated that § 87(2)(b) did not want to speak to the undersigned.

#### **Witness Statement – § 87(2)(b)**

§ 87(2)(b) is § 87(2)(b). He provided a phone statement to IAB on December 3, 2008 (encl. 12 A-B) and provided a phone statement to the CCRB on January 23, 2008 (encl. 13 A-B).

§ 87(2)(b) was inside the club during the fight and therefore did not witness it. At some point, he was informed that the police wanted to speak to him. After going outside, he saw Deputy Inspector Aubrey and Sgt. Burke present. He knew their names from interacting with them in the past. He also saw a male, already identified as § 87(2)(b) on the ground.

At some point, another male, who § 87(2)(b) identified by the name '§ 87(2)(b)' approached him. This male was subsequently identified by IAB as being § 87(2)(b) (note: emails received at the CCRB from § 87(2)(b) provided the name '§ 87(2)(b)' next to his email address).

§ 87(2)(b) was bleeding from the head and reported to § 87(2)(b) that he had been walking to his car when a police officer approached and hit him on the head "with a flashlight." He never said anything about being punched, but § 87(2)(b) believed that he may have been pepper-sprayed. § 87(2)(b) brought § 87(2)(b) down to the bathroom. Around 3 or 4 individuals came inside the club, one with the nickname § 87(2)(b) and one with the nickname § 87(2)(b) who also claimed that they had been pepper-sprayed. § 87(2)(b) later went to the hospital.

§ 87(2)(b)'s organization never filed any type of report regarding the incident.

**Witness Statement – § 87(2)(b)**

§ 87(2)(b) is the § 87(2)(b) § 87(2)(b). He provided a phone statement to the CCRB on January 31, 2008 (encl. 16 A).

§ 87(2)(b) did not witness any of the incident.

He confirmed that his company has surveillance cameras set up at the location. He said that IAB appeared at his business two days after the incident and after going through the footage, found that the cameras had capture the fight on tape. IAB copied the video footage for their file. § 87(2)(b) no longer had this footage at the time he spoke to the undersigned.

**Witness Statement – § 87(2)(b)**

§ 87(2)(b) is a supervisor at § 87(2)(b). He provided a phone statement to the CCRB on February 25, 2008 (encl. 80 J).

He denied that he or any of his § 87(2)(b) witnessed the incident. He said that police officers had already reviewed his surveillance footage but found that the cameras had not been working properly and the contrast was too dark. He no longer had the footage.

**Witness Statement – § 87(2)(b)**

§ 87(2)(b) is a manager at § 87(2)(b). He provided a phone statement on July 11, 2008 (encl. 80 P).

§ 87(2)(b) said that the police had already reviewed his company's surveillance footage and found that it did not capture any of the incident. He no longer had the footage at the time of his phone statement.

**SPRINT Printouts**

There were two SPRINT jobs for this incident.

The first SPRINT job, § 87(2)(b) (encl. 70 A), contains § 87(2)(b)'s call to 911 at 4:27 AM. § 87(2)(b) appears on the printout as an anonymous male caller and his ani-ali number was a cell number. § 87(2)(b) stated that there were people fighting in front of the location and it was unknown whether anyone had weapons.



The second SPRINT job, § 87(2)(b) (encl. 71 A), indicates that a conditions sergeant requested EMS at the scene at 4:32 AM in regards to an assaulted individual. Sector M of the 67<sup>th</sup> Precinct called in a 10-84 (arrived at scene) at 4:33 AM. At 4:34 AM, the conditions sergeant advised Central to send no further units to the location. A sergeant, 67ST2, called in a 10-84 at 4:34 AM and another sergeant, 67ST1, called in a 10-84 at 4:39 AM. The units at the scene requested a better ETA (estimated time of arrival) for the ambulance at 4:41 AM. EMS reported that they were on scene at 4:47 AM and at 4:51 AM asked for the exact location of the aided individual. Sector M called in a 10-98 (resuming patrol/available) at 5:05 AM and Sector I called in a 10-98 at 5:57 AM. At 6:08 AM, the sergeant designated by ST2 called in the job's final disposition, 10-93C (complaint report prepared).

### **Review of the Communications CD**

A review of the communications CD confirmed the above information. The CD indicates, however, that it was originally the 67<sup>th</sup> Precinct Sector A which requested additional units at C-PAC. A 67<sup>th</sup> Precinct Conditions Sergeant then responded.

Several minutes later, another call came over for additional units at East 45<sup>th</sup> Street and Glenwood. Sectors I and M both immediately responded to that scene. A conditions sergeant can then be heard calling over to Central around this time in regards to an injured officer at this second location.

### **Officer Statements – PO Bruce Ceparano**

PO Bruce Ceparano is a § 87(2)(b). He has been a member of service for five years. On the incident date, he originally had a 5:30 PM by 2:05 AM, which was extended until 6:05 AM. He was working conditions, was in uniform and was traveling in a marked van, RMP 5340. He said that there are usually more officers on the conditions team, but he could only specifically remember working with Sgt. Burke, Sgt. McHugh and PO Joseph. His memo book entries (encl. 35 A-C) did not contain any mention of this incident.

PO Ceparano was interviewed at the CCRB on December 3, 2008 (encl. 36 A-C). On the day of his interview, PO Ceparano was wearing glasses. He stated, however, that he always wears contacts when on patrol.

On December 2, 2007 at approximately 4:30 AM, some type of call came over the radio, possibly either a 10-85 (need additional unit) or 10-34 (assault in progress). When the conditions team arrived, there was a huge fight in front of the large metal gate and numerous people were scattering. There were already about 20-30 uniformed officers already present and several marked patrol cars and vans.

PO Ceparano noticed a victim, already identified as § 87(2)(b) lying on the ground in the middle of the street by the gate. § 87(2)(b) appeared to be unconscious. PO Ceparano did not actually see anyone hit § 87(2)(b). People in the vicinity appeared to be running over him; they seemed unconcerned for his safety.

PO Ceparano and few other officers stood over § 87(2)(b) in order to clear some space and prevent him from being trampled. The officers then waited for EMS to arrive. PO Ceparano could not remember which other officers were with him and did not know where Sgt. Burke or Sgt. McHugh were located at this time. No civilians ever approached PO Ceparano or presented any type of problem. He did not speak to any civilians at the scene.

At some point, PO Ceparano remembered smelling and breathing in pepper spray. PO Ceparano denied deploying his pepper spray and did not know who did. He never heard any civilians claim to have been pepper-sprayed.

PO Ceparano denied using any force against any civilians at the scene. He denied striking any civilian with an inanimate object. PO Ceparano never witnessed an officer strike a civilian with an inanimate object. PO

Ceparano could not recall any officers at the scene with a baton or asp drawn. He never heard any civilians complaining about injuries.

PO Ceparano was shown § 87(2)(b)'s photo but did not recognize him. He was also shown a photo of § 87(2)(b)'s injury. He denied seeing any civilian at the scene with a similar injury.

PO Joseph ultimately prepared a UF-61 for § 87(2)(b) and about five to ten minutes after the officers arrived, a 10-85 call (need additional unit) came over the radio for another club located five blocks away. The conditions team immediately got in their van and drove to the second location. PO Ceparano could not remember whether EMS arrived before the officers left the scene.

### **Officer Statements – Sgt. Denis Burke**

Sgt. Denis Burke is a § 87(2)(b). He has been a member of service for 11 years. Since the time of the incident, he has been promoted to lieutenant. On December 2, 2007, he had a 5:30 PM by 2:12 AM tour but worked overtime until approximately 7:00 AM or 8:00 AM. He was the conditions sergeant and his team consisted of PO Joseph, PO Felix, PO Arabella and PO Ceparano. Sgt. McHugh was also present because Sgt. Burke was training him prior to being promoted. The entire conditions team was in the same marked van. Sgt. Burke was in uniform. His memo book entries (encl. 29 A-B) did not contain any mention of this incident.

Sgt. Burke was interviewed by IAB on May 22, 2008 (encl. 30 A-B) and at the CCRB on October 17, 2008 (encl. 31 A-D). § 87(2)(g) He declined to review his GO-15 tape prior to his CCRB interview.

On December 2, 2007 at approximately 4:30 AM, the conditions team got a radio run that there was a large fight in front of C-PAC. Sgt. Burke was working on club enforcement and had been at another club about four blocks away.

Upon arrival at C-PAC, he saw a large crowd of about 300 people exiting the club and a huge fight happening right outside the large gate. There were about four unknown uniformed officers already present. Because there were so many people, these four officers were unable to physically do anything and no one was heeding their commands. Sgt. Burke did not know which officers these were but believed they were likely sector patrol. The conditions team parked at the corner. Sgt. Burke explained in his interview that the club typically shuts down the street in order to use it for valet parking.

At this time, Sgt. Burke observed § 87(2)(b) on the ground and being stomped on by about 15 people. From § 87(2)(b)'s appearance, Sgt. Burke initially thought that he might be dead.

The entire conditions team approached the scene. The officers told the people, "Get off the block and get away from § 87(2)(b)." The officers directed people to walk down the block away from the club. The crowd continued to ignore them. Sgt. Burke therefore "used reasonable force" by deploying his pepper spray. Sgt. Burke did not know who exactly he pepper-sprayed but said he used it against the people who appeared to be attacking § 87(2)(b). Sgt. Burke explained that he "sprayed who I could get to stop them from killing this kid." After pepper-spraying them, Sgt. Burke had to push two of these individuals off § 87(2)(b). The pepper spray was effective but other individuals in the vicinity continued fighting.

Sgt. Burke had no idea whether any other officers deployed their pepper spray. Sgt. Burke explained in his interview that "with that many people you kind of get tunnel vision and you just focus in on what you're doing." Sgt. Burke did not know what Sgt. McHugh or the other officers were doing at this time.

The crowd dispersed but the fight continued at the corner of East 48<sup>th</sup> Street and Farragut Road. Sgt. Burke remained for some time with § 87(2)(b) and requested backup as well as medical aid. About 100 officers appeared. Sgt. Burke believed that the whole precinct eventually showed up and that some units may have been from neighboring precincts.

After radioing for EMS, Sgt. Burke and PO Beelitz went over to the corner to stop the fight. Sgt. Burke ordered one officer to remain with § 87(2)(b) who was still lying on the ground. The fight ended some time later. Sgt. Burke never removed his asp or baton, but at some point, while heading towards the corner, he saw officers with their batons and asps out. These officers were holding them horizontally and using them to push the crowd back. Sgt. Burke never saw any officers strike anyone with a baton or asp.

Sgt. Burke never noticed anyone at the scene, besides § 87(2)(b) who appeared to have a head injury. Sgt. Burke was shown § 87(2)(b)'s arrest photo. He did not recognize him. Sgt. Burke never saw any officer at the strike any individual in the head with an inanimate object. Sgt. Burke never heard anyone complaining about being injured. The ambulance took about 20-25 minutes due to the fact that Farragut Road was blocked in both directions. § 87(2)(b) was unconscious until the point when the ambulance arrived. After the ambulance removed § 87(2)(b) to the hospital, Sgt. Burke continued patrol.

Sgt. Burke explained in his interview that § 87(2)(b) is suing the precinct because of past incidents at the club and because the police are shutting the club down.

#### **Officer Statements – Sgt. Thomas McHugh**

Sgt. Thomas McHugh is a § 87(2)(b). He has been a member of service for 13 years. Since the incident date, he has been reassigned to the 10<sup>th</sup> Precinct. On December 2, 2007, he had a scheduled 6:00 PM by 6:00 AM tour. He was in uniform and working conditions with Sgt. Burke and PO Joseph. They were traveling in marked van, RMP #5340. His memo book entries (encl. 26 A-B) do not contain any mention of this incident.

Sgt. McHugh was interviewed by CCRB on May 14, 2008 (encl. 27 A-C) and by IAB on May 22, 2008 (encl. 28 A-B).

Upon arriving, Sgt. McHugh saw 100-200 people fighting in the middle of the street. They were punching, kicking, pushing and throwing bottles. Sgt. McHugh remembered a lot of units being present, but could not recall whether his team was one of the first responding units. All of the units were marked sector patrol units from the 67<sup>th</sup> Precinct.

§ 87(2)(b) was unconscious and lying on the ground in the middle of the fight. All of the conditions officers approached and pushed the crowd away from him. It took about five minutes to do this. Sgt. McHugh could not recall what Sgt. Burke was doing at this time. Sgt. McHugh saw other officers use pepper spray to disperse the crowd. He told CCRB that he himself did not deploy his pepper spray but believed it was an appropriate way to disperse the civilians. However, in his IAB interview one week later, Sgt. McHugh stated that he did in fact deploy his pepper spray at the scene.

No officers ever took out asps or batons in order to disperse the crowd.

When the ambulance arrived, Sgt. McHugh ordered PO Joseph to complete a complaint report (UF-61) at the scene for the assault of § 87(2)(b). PO Joseph was involved in the investigation for the UF-61 and actually wrote it out. Sgt. McHugh believed that the officers also prepared an AIDED card. § 87(2)(b) was then transported to the hospital. The officers were at the scene for about twenty minutes.

Sgt. McHugh never saw any officer strike anyone in the head with a flashlight. He never saw anyone hit in the head at the scene, never saw anyone with visible injuries and never heard any civilians complain about injuries. § 87(2)(b)'s physical description and clothing description were provided to Sgt. McHugh. Sgt. McHugh could not recall having any interaction or seeing anyone fitting that description.

#### **Officer Statements – PO Ricardo Joseph**

PO Ricardo Joseph is a § 87(2)(b). He has been a member of service for three years. On the incident date, he had a 5:30 PM by 2:05 AM tour, which was ultimately

extended. PO Joseph was working conditions, was in uniform and was in marked van, RMP #5340. He did not have any memo book entries (encl. 20 A-C) regarding this incident.

PO Joseph prepared the complaint report (UF-61) (encl. 21 A-C) for § 87(2)(b). It contains the following narrative: "At t/p/o (time and place of occurrence) C/V (complainant/victim) states he was [struck] in the head with a bottle during large fight at location in front of 1020 E 48 Street. Compl had just left location and [large] police presence required to disperse crowd. Compl suffers laceration to his nose. AIDED card done." Sgt. McHugh appears as the 'supervisor on scene.' The individual wanted in connection with this complaint was marked as a 'stranger' and no name or description was provided.

PO Joseph prepared the AIDED card (encl. 22 A-B) for § 87(2)(b). It contains the same narrative. It indicates that § 87(2)(b) refused medical attention (RMA). Sgt. McHugh signed the handwritten form as the reviewing supervisor. Sgt. Thomas Hergenhan appears as the reviewing supervisor on the electronic printout copy (encl. 23 A-E).

PO Joseph was interviewed by the CCRB on May 8, 2008 (encl. 24 A-C) and by IAB on July 24, 2008 (encl. 25 A-B).

PO Joseph stated in his CCRB interview that upon arriving at C-PAC, he saw a lot of people running out of the club. Uniformed units were already present. When asked what he did upon arrival, he replied, "Nothing." He just exited the van and stood next to it. He never saw officers conducting crowd control. He never saw any officers using pepper spray or batons. He denied having any interaction whatsoever with anyone at the scene. He never saw anyone injured.

Less than two minutes later, the team got a call for a different incident about two or three blocks away, at a club called Tropical Reflection. The officers ran over to this other incident. PO Joseph never found out what happened at the scene or why people were running out of the club.

PO Joseph denied filling out any paperwork at the incident scene. At this point in his CCRB interview, PO Joseph was informed that he prepared a UF-61 in front of 1020 East 48<sup>th</sup> Street in regards to an individual named § 87(2)(b) and was shown a copy of the UF-61. PO Joseph stated that he never heard that name before and had no knowledge of that incident. After briefly reviewing the UF-61, PO Joseph said, "I don't recall that I did it, but when I get to the precinct, I'll check my paperwork and see. If I did it, probably the boss, supervisors, do it. But I don't remember. I didn't get into contact with anybody. We weren't there for long... not even two minutes later we responded to the other job."

It was then pointed out to him that he also prepared an AIDED card for § 87(2)(b) and shown a copy of it. PO Joseph maintained that he "didn't come into contact with anybody while I was there. Like I said before, I didn't contact with anybody and talk to anybody while I was there."

At the conclusion of his CCRB interview, PO Joseph was asked whether he could remember anything regarding the documents which bore his name. He said no and said, "If I did fill it out, like I said, my supervisor instructed me to do it. But presently, I don't remember filling it out."

In his interview with IAB two months later, PO Joseph provided a different account. He said that upon arrival, he saw 50 people fighting in the street. While other officers dispersed the crowd, he stayed with § 87(2)(b). PO Joseph acknowledged completing a UF-61 for him. He never saw any officer strike anyone with a flashlight or any object. He remembered smelling pepper spray in the air but did not know which officers had deployed pepper spray. No civilian requested medical attention other than § 87(2)(b).

#### **Officer Statements – PO Mark Beelitz**

PO Mark Beelitz is a § 87(2)(b). He has been a member of service for three years. On December 2, 2007, he had a 2:30 PM by 11:35 PM tour and was working with the conditions team. His memo book entries (encl. 56 A-B) contain no mention of the incident.

He was interviewed by IAB on June 10, 2008 (encl. 57 A-B). Upon arrival, he saw a group of about 30-40 males fighting. He exited the van and issued verbal commands for the crowd to disperse. He denied striking or pepper-spraying anyone, but did smell pepper spray in the air. The only physical interaction he with anyone at the scene was open-hand pushing a few people in the crowd. He never saw any officer strike anyone with an object. He never saw any injured individuals at the scene and never heard anyone requesting medical attention.

#### **Officer Statements – PO Devin Long**

PO Devin Long is a § 87(2)(b). He has been a member of service for three years. On December 2, 2007, he had an 11:15 PM by 7:50 AM tour and was patrolling sector IJ with PO Santiago. PO Long was in uniform and traveling in RMP 1647, a marked patrol car. His memo book entries (encl. 40 A-B) contain no mention of this incident. He had the following entries around the time of the incident: “0424: 10-90 F2 (unfounded domestic incident report prepared) for § 87(2)(b)” 0557: 10-10 (possible crime) calls @§ 87(2)(b).”

PO Long was interviewed by IAB on February 8, 2008 (encl. 41 A-B) and by CCRB on December 12, 2008 (encl. 42 A-B). Prior to his CCRB interview, PO Long reviewed his GO-15 tape.

At the time of his CCRB interview, PO Long’s hair was in long dreadlocks or braids and wrapped in a short ponytail. He confirmed that he had a similar hairstyle at the time of the incident.

PO Long had no recollection of this incident. He affirmed that he is familiar with the incident location but denied that he or PO Santiago went there at any point during their tour. He could not remember whether he drove by C-PAC at any point and could not remember receiving any radio runs regarding an incident at C-PAC.

PO Long viewed § 87(2)(b)’s interview photo but did not recognize him. PO Long denied seeing anyone with a head injury or anyone claiming to have been hit by an officer with an inanimate object. PO Long was shown a photo § 87(2)(b)’s injury (email photo 5 of 6) and denied seeing anyone with a similar injury during his tour.

#### **Officer Statements – PO Jaime Santiago**

PO Jaime Santiago is a § 87(2)(b). He has been a member of service for three years. On December 2, 2007, he had an 11:15 PM by 7:50 AM tour and was assigned to sector patrol IJ with PO Long. His memo book entries (encl. 45 A-B) contain no mention of the incident.

PO Santiago’s IAB statement (encl. 46 A) was consistent with PO Long’s statement – he denied that they responded to C-PAC during their tour.

#### **Officer Statements – PO Brian Foley**

PO Brian Foley is a § 87(2)(b). He has been a member of service for nine years. Since the time of this incident, he has been promoted to sergeant and has been reassigned to the 100<sup>th</sup> Precinct. On December 2, 2007, he had an 11:15 PM by 7:50 AM tour. He was patrolling sector MN with PO Carita. He was in uniform and traveling in RMP 1571. His memo book entries (encl. 32 A-B) contain no mention of this incident.

Sgt. Foley was interviewed by IAB on August 19, 2008 (encl. 33 A-B) and by the CCRB on November 24, 2008 (encl. 34 A-B). § 87(2)(g)

On December 2, 2007 at approximately 4:30 PM, PO Foley responded to a 10-85 call from an unknown unit at C-PAC. When he and PO Carita arrived, another 10-85 came over for another location about four blocks away. PO Foley and PO Carita observed a couple of RMPs at C-PAC. However, they did not actually stop at the scene. They were present for a second and never exited. Therefore, PO Foley did not

see what type of units these present or which officers were present. He could not recall whether any officers were conducting crowd control. He never saw any officer at the scene strike a civilian with a flashlight. PO Foley did not see any officers with their batons drawn or using their mace. He never saw anyone injured at the scene. PO Foley was shown photos of § 87(2)(b) and his injury – he did not recognize § 87(2)(b) and never saw anyone at the scene with his type of injury.

After getting the second 10-85 call, PO Foley and PO Carita immediately responded to that other location. PO Foley never responded back to C-PAC after leaving it.

#### **Officer Statements – PO Christopher Carita**

PO Christopher Carita is a § 87(2)(b). He has been a member of service for three years. On December 2, 2007, he had an 11:15 PM by 7:50 AM tour. He was working with PO Foley and patrolling sector MN. His memo book entries (encl. 52 A) contain no mention of the incident.

PO Carita was interviewed by IAB on August 19, 2008 (encl. 53 A-B). His statement was consistent with PO Foley's statement.

#### **Officer Statements – PO Ashland Menelas**

PO Ashland Menelas is a § 87(2)(b). He has been a member of service for three years. On the incident date, he had the same short hairstyle that appears in his MOS photo. On December 2, 2007, he had an 11:15 PM by 7:50 AM tour and was patrolling sector ABC with PO Ramlochan. They were traveling in marked patrol car number 1791. His memo book entries (encl. 37 A-D) contain no mention of the incident.

PO Menelas was interviewed by IAB on July 8, 2008 (encl. 38 A-B) and by CCRB on December 4, 2008 (encl. 39 A-B).

On December 2, 2007, PO Menelas and PO Ramlochan arrived at C-PAC and observed people fighting in a large crowd that filled the entire surrounding area. There were several other units already present but he could not remember the specific officers present.

When the police arrived, numerous people began running away or getting in their vehicles. PO Menelas and PO Ramlochan exited their vehicle and began directing the crowd to disperse. PO Menelas stood in the vicinity of the large black metal gate. The officers at the scene ran back and forth and tried to get people to disperse and stop fighting. No one at the scene refused to disperse or presented any problem. PO Menelas left the scene after 10-15 minutes and went to another job.

In his CCRB interview, PO Menelas claimed that he had no physical interaction with any civilians at the scene. However, he told IAB that the verbal commands to disperse were not effective so he began "pulling combatants apart." PO Menelas never saw any officers use physical force to disperse the crowd. PO Menelas never saw any officer hit a civilian with an inanimate object. PO Menelas did not use his pepper spray, although in his IAB interview he remembered smelling pepper spray in the air. PO Menelas viewed photos of § 87(2)(b) and his injury. He did not recognize § 87(2)(b) and never saw anyone at the scene with visible injuries.

#### **Officer Statements – PO Narine Ramlochan**

PO Narine Ramlochan is a § 87(2)(b). In CTS, his ethnicity is listed as black but it is listed as "other" in his MOS photo. He has been a member of service for three years. On December 2, 2007, he had an 11:15 PM by 7:50 AM tour and was patrolling sector ABC with PO Menelas. His memo book entries (encl. 48 A-B) contain no reference to the incident.

PO Ramlochan was interviewed by IAB on July 21, 2008 (encl. 49 A-B).

PO Ramlochan confirmed that this particular job was a pickup. He said that verbal instructions were not effective in getting the crowd to disperse so he began “pulling combatants apart.” He denied using pepper spray but did smell it in the air. He did not know which officers used pepper spray. He denied striking anyone and denied seeing any officer strike anyone. He did not observe any injured civilians at the scene and no one requested medical attention from him. PO Ramlochan was shown a photo of § 87(2)(b) but did not recognize him.

### **Additional Officer Interviews**

IAB interviewed the following additional officers: Sgt. Bernard Smiley (patrol supervisor) and PO Marcelo Salazar (patrol sergeant’s operator), PO Cheryl Weiss and PO Gregory Pico (sector DEF patrol), PO Gerald Barnett and PO Joshua Dawson (sector KP patrol), and PO Carrie Reilly and PO Anthony Matos (sector GH patrol).

None of these additional officers responded to C-PAC on the incident date.

### **§ 87(2)(b) Records**

§ 87(2)(b) provided the medical records for § 87(2)(b) for § 87(2)(b) and § 87(2)(b) (encl. 66 A-V). The records indicate that § 87(2)(b) appeared on § 87(2)(b) and was seen around § 87(2)(b). On his ‘patient sign-in’ sheet, he checked ‘dizzy/weak’ and ‘difficulty breathing’. He also wrote in “police brutality.” The Emergency Department Nurse Triage (encl. 66 J-K) indicates that he walked to the hospital with family. His chief complaint was that he had been maced in both eyes. He also complained that he had been “hit by flashlight” and had a headache as a result.

According to the Emergency Physician Record (encl. 66 L-M), his chief complaint was that he had sustained an injury to his head just prior to his arrival. He alleged that he was assaulted when “hit [by] flashlight by NYPD.” He was alert and oriented and denied loss of consciousness but said he felt dazed. To note, his social history does not make any mention of recent alcohol (ETOH) use and he denied taking medication. He had a laceration on the back of his scalp and hematoma covering a 2 x 2 cm. area. The laceration was described as being superficial and 2 cm. in length. The wound was closed with 8 nylon stitches. His diagnosis (encl. 66 N) was ‘intracranial injury.’ He was instructed to put ice on the injury and return in five days for suture removal. He was prescribed Lidocaine and 800 mg. of Motrin. He was discharged around § 87(2)(b).

§ 87(2)(b) appeared at the Emergency Department again on § 87(2)(b) for suture removal. He complained of having a headache. The laceration on his head was in good shape and he was discharged.

### **FDNY Documents**

A subpoena was faxed to FDNY on January 29, 2008 for any ambulance call report (ACR) prepared for § 87(2)(b). FDNY responded with a note (encl. 82 I) indicating that the incident was unfounded; therefore, no ACR was available.

FDNY did provide a copy of their SPRINT printout (encl. 67 A), which indicates that FDNY EMS unit 41D1 was assigned to the job at 4:36 AM and marked the job only as ‘90’ NFI (no further information) at 4:55 AM.

### **Review of Surveillance Video**

The IAB case file contained a CD which had several surveillance video files.

There was one color video, approximately 42 minutes in length, with decent quality footage (Video 07-12-02-04-10-00-04.wmv). The camera appears to be situated high on the wall of C-PAC. It is therefore on the inside of the black gate and points out from the dead end towards the corner. Cars can be seen parked on

both the inside and outside of the gate. For the first half of the video, numerous people can be seen walking down the street, presumably leaving C-PAC. Halfway through the video, there appears to be some type of event in the middle of the street, far from the camera and almost at the corner. All pedestrian and vehicle traffic appears to stop. About 31 minutes into the video, a patrol car appears with its emergency lights activated. The patrol car appears to park halfway between the corner and the gate. Around 32 minutes, the event seems to calm down and traffic continues. Just before 33 minutes, it appears that a fight breaks out much closer to the camera, just beyond the large black gate, and an individual is seen going to the ground. Almost immediately thereafter, what appears to be a police van arrives with its emergency lights on and it parks next to the original patrol car, very close to the scene of the fight. Shortly thereafter, people in the crowd are seen staggering backwards and moving away from the scene. The entire crowd disperses. Some officers are visible at this point and can be seen carrying flashlights. Several people who appear to have their hands to their faces are seen being escorted by other individuals back in the direction of the club. Two minutes later, there appears to a bald white male officer carrying a flashlight who is shining the light around the perimeter of the incident scene. Approximately 5-8 officers can be seen standing in a circle in the middle of the street for some time and then several go away towards the corner. Other police vehicles can be seen arriving at the corner but it is impossible to determine whether they stay at the scene. It is not possible to identity any individuals for certain from the video.

One establishment apparently had 14 functioning cameras (listed under 'Cam Video' on the CD). The footage from all 14 cameras was in black and white and grainy (possibly the footage from § 87(2)(b)). Only one camera, Camera 7, captured the incident because the other cameras were positioned inside the building. Camera 7 contains very grainy footage of the incident scene. It is not possible to distinguish individuals whatsoever or to discern any particular actions. There appears to be several individuals who are standing in the middle of the screen. There appears to be some type of struggle and then several individuals are seen crowding around something on the ground. Several other individuals arrive a few minutes later (possibly the police). There appears to be some type of struggle and then several individuals are again seen standing around something on the ground. After a few minutes, it appears that everyone leaves the scene.

### **BADS Checks**

Thorough searches of the BADS database were conducted on December 14, 2007 and again on January 17, 2008. Both of these searches yielded negative results for § 87(2)(b) or for any arrests related to the incident date and time.

### **IAB Case Closing Report**

IAB concluded their investigation, log #: 07-46367 (encl. 68 A-E), on August 29, 2008. IAB pleaded two allegations of 'Unnecessary Force' against an 'Unidentified Officer.' IAB also pleaded one allegation of 'Failure to Notify IAB' against PO Devin Long. All three allegations were closed as unsubstantiated.

### **NYPD Complaint Follow-up Informational System**

The 67<sup>th</sup> Precinct Detective Squad investigated the assault allegations made in the UF-61 prepared for § 87(2)(b). Their investigative steps were recorded in DD5s (encl. 69 A-F). As mentioned above, detectives interviewed § 87(2)(b) at his home. They also interviewed his mother who told detectives that when she came home, she found her son sleeping on the couch. He had a black eye and a cut to his nose. She woke him up to ask him what happened. He had a strong odor of alcohol on his breath and was incoherent due to his slurred speech. He told her that he could not remember how he had sustained his injuries. The case investigator, Det. Michael Braithwaite, closed the case out with the disposition 'Leads Exhausted' since § 87(2)(b) was unable to provide any information as to who attacked him.

### **UF-250 Index**

The UF-250 index (encl. 72 A) had no entries relating to this incident.



### **Command Log**

The command log for the 67<sup>th</sup> Precinct (encl. 73 A-D) had no entries relating to this incident.

### **Tour 3 Roll Call for the 67<sup>th</sup> Precinct**

The tour 3 roll call for the 67<sup>th</sup> Precinct for December 1, 2007 (encl. 74 A-L) indicates that Sgt. Burke and Sgt. McHugh were both conditions supervisors and originally scheduled to 5:30 PM by 2:17 AM tours. The other members of their team, who were listed as working ‘CPU Conditions,’ were PO Beelitz, PO Joseph and PO Ceparano. PO Ceparano’s name was listed two entries below those for PO Beelitz and PO Joseph.

### **Tour 1 Roll Call for the 67<sup>th</sup> Precinct**

The tour 1 roll call for the 67<sup>th</sup> Precinct for December 2, 2007 (encl. 75 A-H) indicates that Sgt. Smiley was the patrol supervisor and PO Salazar was the sergeant’s operator. PO Menelas and PO Ramlochan were patrolling sector ABC, PO Pico and PO Weiss were patrolling sector DEF, PO Reilly and PO Matos were patrolling sector GH, PO Long and PO Santiago were patrolling sector IJ, PO Barnett and PO Dawson were patrolling sector KP, PO Carita and PO Foley were patrolling sector MN.

### **67<sup>th</sup> Precinct Officer Photos**

A review of the photos (encl. 76 A-L) for all officers identified as being at the scene (Conditions, Sectors A, I and M) indicates that PO Ceparano (encl. 76 A) was the only officer marked as having a receding hairline (as noted above, he was completely bald at the time of his interview). None of the other officers match the description provided by § 87(2)(b) [REDACTED] for the officer who allegedly struck him on the head. As noted above, PO Long (encl. 76 F) had short hair in his officer photo.

### **Tour 1 Roll Call for Task Force**

The tour 1 roll call for Patrol Borough Brooklyn South Task Force (encl. 77 A-F) indicates that Task Force was deployed to the confines of the 70<sup>th</sup> Precinct that evening, not the 67<sup>th</sup> Precinct.

### **Notice of Claim Check**

The Comptroller’s Office reported on February 12, 2009 that they did not have any Notice of Claim on record in regards to this particular incident (encl. 82 E).

### **Civilian Criminal Conviction History Check**

§ 87(2)(b) [REDACTED] §§ 86(1)(3)&(4) [REDACTED] § 87(2)(c) [REDACTED]  
[REDACTED]  
[REDACTED]

### **CCRB History of Substantiated Allegations**

PO Ceparano and PO Long have never had any allegations substantiated against them at the CCRB (encl. 2 A-B).

## **Conclusions and Recommendations**

### **Officer Identification**

Inasmuch as the investigation determined that multiple officers deployed their pepper spray, allegation A is pleaded against “Officers.”

As mentioned above, § 87(2)(b) was shown two separate photo arrays by IAB but did not identify any of the officers as being the officer who struck him on the head. However, he was never shown a photo of PO Ceparano, who it was determined was the only officer at the scene who fit the description. PO Ceparano acknowledged responding to the scene along with the rest of the conditions team. § 87(2)(g)

§ 87(2)(b) identified PO Long in his IAB photo array as the officer who he approached and spoke to about his injury. Despite the fact that PO Long denied being at the incident scene, the SPRINT indicates that his sector did in fact respond to the scene. § 87(2)(g)

### **Undisputed Facts**

It is undisputed that uniformed officers responded to the scene and ordered the crowd to disperse. It is undisputed that an unknown number of officers pepper-sprayed individuals at the scene.

### **Disputed Issues**

§ 87(2)(g)

### **Assessment of Evidence**

From the witness statements provided, several elements can be pieced together regarding the lead-up to the incident. From viewing the surveillance video and by reviewing the statements from § 87(2)(b) and § 87(2)(b) the evidence determined that a fight occurred in the immediate vicinity of § 87(2)(b) and involved his friend, § 87(2)(b) § 87(2)(g)

When the conditions team arrived in their van, these individuals stopped beating up § 87(2)(b) but remained in the vicinity while § 87(2)(b) was lying on the ground.

§ 87(2)(g)

Sgt. Burke and Sgt. McHugh both used their pepper spray. § 87(2)(g) This is because he admitted to using his pepper spray when he was interviewed by IAB, one week after his CCRB interview.

Although § 87(2)(b) consistently told IAB that PO Ceparano punched him in the head prior to striking him with the flashlight, he never made this allegation in his CCRB statements. § 87(2)(g)

§ 87(2)(g)

He told CCRB and IAB that he just assumed that the object he had been hit with was a flashlight because he had seen PO Ceparano holding a flashlight. However, he told IAB that he did not actually see the flashlight strike him. § 87(2)(g)

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Since PO Ceparano denied striking § 87(2)(b) § 87(2)(g)  
[REDACTED]

§ 87(2)(g) The SPRINT indicates that he and PO Long responded to the incident scene. Furthermore, § 87(2)(b) identified him in a photo array, despite the fact that PO Long had short hair in his photo and § 87(2)(b) accurately described him as having braids at the time of the incident. § 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### **Allegations Not Pleaded**

Despite the fact that § 87(2)(b) consistently told IAB that PO Ceparano punched him prior to striking him with a flashlight, no physical force allegation was pleaded against PO Ceparano. This is because § 87(2)(b) never made this allegation to the CCRB.

#### **Allegation A. Officers used pepper spray against § 87(2)(b) and individuals.**

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED] According to Patrol Guide Procedure 212-95 (encl. 1 A), “O.C. (oleoresin capsicum) pepper spray may be used when a member reasonably believes it is necessary [for]... defense of another from unlawful force.” Pepper spray will “often reduce the potential for injuries to members and suspects that may result from physical restraint and it should be regarded as a possible alternative to such force and restraint, where practical.” § 87(2)(g)  
[REDACTED]

#### **Allegation B. PO Bruce Ceparano struck § 87(2)(b) with a flashlight.**

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### **Allegation C. PO Devin Long did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: